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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

LAURA M. HEPPOLETTE,  
Executor of the ESTATE OF

BARBARA A. MOSS

Plaintiff,

v.

THE STAR LEDGER, NEW JERSEY  
PHOTOSHOPS, INC., and JOHN DOE (i-x)  
defendants whose identities are at this time  
unknown to plaintiff,

Defendants.

Civil Action No.

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Newark Morning Ledger Co., publisher of The Star-Ledger ("The Star-Ledger" or "defendant") files this Notice of Removal to remove this civil action from the Superior Court of the State of New Jersey, in and for Bergen County, where it was filed as Civil Action No. C-236-09, to the United States District Court for the District of New Jersey, and states as follows:

1. The Star-Ledger is a named defendant in a civil action pending in the Superior Court of the State of New Jersey, in and for Bergen County, styled as *Laura M. Heppollette*,

*Executor of the Estate of Barbara A. Moss v. The Star Ledger, New Jersey Photoshops, Inc., and John Doe (i-x) defendants whose identities are at this time unknown to plaintiff.*

2. The Complaint alleges that plaintiff Laura Heppolette is the daughter and Executor of the Estate of Barbara Moss, a former employee of The Star-Ledger who is now deceased. The Complaint further alleges that Barbara Moss was entitled to pension benefits from The Star-Ledger pursuant to The Star-Ledger's pension plan, and that The Star-Ledger improperly calculated and/or administered Barbara Moss' pension benefits.

3. The Star-Ledger's pension plan is governed by and subject to the provisions of the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. § 1001, *et seq.*, a federal Statute.

4. Copies of all process, pleadings and orders served on or by The Star-Ledger in this action are attached as Exhibit A.

#### **FEDERAL QUESTION JURISDICTION**

5. Plaintiff's Complaint is properly removable to federal court because plaintiff's claims raise a substantial federal question and therefore provide original federal question jurisdiction over this action under 28 U.S.C. § 1331. *See* 28 U.S.C. § 1441(a); *Grable & Sons Metal Prods., Inc. v. Darue Eng'g & Mfg.*, 545 U.S. 308 (2005) (federal question jurisdiction proper where a state-law claim necessarily raises a stated federal issue, actually disputed and substantial, which a federal forum may entertain without disturbing any congressionally approved balance of federal and state judicial responsibilities).

6. The Complaint alleges that plaintiff Laura Heppolette is the daughter and Executor of the Estate of Barbara Moss, a former employee of The Star-Ledger, who is now deceased. The Complaint further alleges that Barbara Moss was entitled to pension benefits

from The Star-Ledger pursuant to The Star-Ledger's pension plan, and that The Star-Ledger improperly calculated and/or administered Barbara Moss' pension benefits.

7. The Star-Ledger's pension plan is governed by and subject to the provisions of the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. § 1001, *et seq.*, a Federal Statute.

8. Accordingly, removal is proper under federal law since this is a civil action brought in state court over which a federal court has original jurisdiction based on the existence of a substantial federal question, namely a dispute over a pension plan governed by ERISA. *See* 28 U.S.C. § 1331 and § 1441.

**THE OTHER REMOVAL PREREQUISITES HAVE BEEN SATISFIED**

9. The prerequisites for removal under 28 U.S.C. § 1441 have been met.

10. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b) in that it is being filed within thirty (30) days after the first receipt by a defendant through service of the Complaint. The Star-Ledger was purportedly served on November 5, 2009.

11. The only properly joined and served defendant (The Star-Ledger) consents to the removal of this action. On information and belief, there is no entity entitled "New Jersey Photoshops, Inc."

12. Pursuant to 28 U.S.C. § 1446(d), a copy of this notice is being served on all counsel of record and the clerk of the Superior Court of the State of New Jersey, in and for Bergen County. (Exhibit B)

13. Removal to the United States District Court for the District of New Jersey is appropriate because this action is being removed from the Superior Court of the State of New Jersey, in and for Bergen County, which is located within the District of New Jersey.

14. By removing this action to this Court, The Star-Ledger does not waive any defense available to it.

15. If any question arises as to the propriety of the removal of this action, The Star-Ledger requests the opportunity to present a brief and oral argument in support of its position that this case is removable.

WHEREFORE Newark Morning Ledger Co., publisher of The Star-Ledger, respectfully requests that this Notice of Removal be filed; that this action in the Superior Court of the State of New Jersey, in and for Bergen County, be removed to this Court; and that no further proceedings be had in the Superior Court of the State of New Jersey, in and for Bergen County.

Respectfully submitted,

ROBINSON, WETTRE & MILLER LLC

By: s/ *Keith J. Miller*

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Newark Morning Ledger Co.,  
publisher of The Star-Ledger

Dated: December 4, 2009

**CERTIFICATE OF SERVICE**

I hereby certify that on this day I caused to be filed electronically with the Clerk, United States District Court, District of New Jersey, 50 Walnut Street, Newark, New Jersey 07102 and served by facsimile and/or overnight mail upon the following, a copy of the within Notice of Removal as well as a Notice of Filing of a Removal to the United States District Court, pursuant to 28 U.S.C. § 1446.

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Clerk, Bergen County  
Superior Court, Law Division  
Justice Center  
10 Main Street  
Hackensack, New Jersey 07601

By: s/ Keith J. Miller  
Keith J. Miller

Dated: December 4, 2009